

SECOND REGULAR SESSION

# HOUSE BILL NO. 1086

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GOSEN.

4550H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 407.725, RSMo, and to enact in lieu thereof one new section relating to real estate repair contractors.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 407.725, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.725, to read as follows:

407.725. 1. As used in this section, the following terms mean:

(1) "[Residential] Contractor", a person or entity in the business of contracting or offering to contract with an owner or possessor of residential **or commercial** real estate to repair or replace roof systems or perform any other exterior repair, replacement, construction, or reconstruction work on **any residential or commercial structure situated upon such** real estate;

(2) ["Residential real estate", a new or existing building constructed for habitation by one to four families, including detached garages;

(3)] "Roof system", includes roof coverings, roof sheathing, roof weatherproofing, and insulation.

2. A [residential] contractor shall not advertise or promise to pay or rebate all or any portion of any insurance deductible as an inducement to the sale of goods or services. As used in this section, a promise to pay or rebate includes granting any allowance or offering any discount against the fees to be charged or paying the insured or any person directly or indirectly associated with the property any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value for any reason.

3. A person who has entered into a written contract with a [residential] contractor to provide goods or services to be paid under a property and casualty insurance policy may cancel

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 the contract prior to midnight on the fifth business day after the insured party has received  
19 written notice from the insurer that all or any part of the claim or contract is not a covered loss  
20 under the insurance policy. Cancellation shall be evidenced by the insured party giving written  
21 notice of cancellation to the [residential] contractor at the address stated in the contract. Notice  
22 of cancellation, if given by mail, shall be effective upon deposit into the United States mail,  
23 postage prepaid and properly addressed to the residential contractor. Notice of cancellation need  
24 not take a particular form and shall be sufficient if it indicates, by any form of written expression,  
25 the intention of the insured party not to be bound by the contract.

26 4. Before entering a contract referred to in subsection 3 of this section, the [residential]  
27 contractor shall:

28 (1) Furnish the insured party a statement in boldface type of a minimum size of ten  
29 points, in substantially the following form:

30 You may cancel this contract at any time before midnight on the fifth business day after you have  
31 received written notification from your insurer that all or any part of the claim or contract is not  
32 a covered loss under the insurance policy. See attached notice of cancellation form for an  
33 explanation of this right.; and

34 (2) Furnish each insured a fully completed form in duplicate, captioned "NOTICE OF  
35 CANCELLATION", which shall be attached to the contract but easily detachable, and which  
36 shall contain, in boldface type of a minimum size of ten points, the following statement:

37 NOTICE OF CANCELLATION If you are notified by your insurer that all or any part  
38 of the claim or contract is not a covered loss under the insurance policy, you may cancel the  
39 contract by mailing or delivering a signed and dated copy of this cancellation notice or any other  
40 written notice to (name of contractor) at (address of contractor's place of business) at any time  
41 prior to midnight on the fifth business day after you have received such notice from your insurer.  
42 If you cancel, any payments made by you under the contract, except for certain emergency work  
43 already performed by the contractor, will be returned to you within ten business days following  
44 receipt by the contractor of your cancellation notice.

45 I HEREBY CANCEL THIS TRANSACTION

46 \_\_\_\_\_

47 (date) \_\_\_\_\_

48 (insured's signature).

49 5. Within ten days after a contract referred to in subsection 3 of this section has been  
50 cancelled, the contractor shall tender to the owner or possessor of [residential] real estate any  
51 payments, partial payments, or deposits made and any note or other evidence of indebtedness.  
52 If, however, the contractor has performed any emergency services, acknowledged by the insured  
53 in writing to be necessary to prevent damage to the premises, the contractor shall be entitled to

54 the reasonable value of such services. Any provision in a contract referred to in subsection 3 of  
55 this section that requires the payment of any fee for anything except emergency services shall not  
56 be enforceable against the owner or possessor of [residential] real estate who has cancelled a  
57 contract pursuant to this section.

58         6. A [residential] contractor shall not represent or negotiate, or offer or advertise to  
59 represent or negotiate, on behalf of an owner or possessor of [residential] real estate on any  
60 insurance claim in connection with the repair or replacement of roof systems, or the performance  
61 of any other exterior repair, replacement, construction, or reconstruction work.

62         7. Any violation of this section by a [residential] contractor shall be considered an unfair  
63 practice pursuant to the Missouri merchandising practices act as codified in this chapter.

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